

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DOUGLAS H. BREWBAKER,

Petitioner,

v.

Civil Action No. 2:06cv16

UNITED STATES OF AMERICA,

Respondent.

ORDER

It will be recalled that on May 26, 2006, Magistrate Judge Kaull filed his Report and Recommendation, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Petitioner filed his objections on June 9, 2006.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in his Motion to Defer Restitution Payments, filed pursuant to 28 U.S.C. §2241, wherein Petitioner alleges that the sentencing court improperly delegated the payment of his restitution to the Bureau of Prisons, and by Respondent's Motion to Dismiss, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the Petitioner's objections, the Court finds that the Petitioner has not raised any issues that were not already throughly addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaul's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Respondent's Motion to Dismiss shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that the Petitioner's Motion to Defer Restitution Payments During Term of Supervised Release be, and the same hereby is, **DENIED**. This Civil Action is hereby **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the Respondent. It is further

ORDERED that, if Petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$455.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: September 21st, 2006

/s/ Robert E. Maxwell
United States District Judge